
Introduced by Senator Lara

February 22, 2013

An act to amend Section 1245.060 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

SB 781, as introduced, Lara. Eminent domain: precondemnation activities.

Existing law authorizes any person authorized to acquire property for a particular use by eminent domain to enter upon property to engage in specified precondemnation activities that are reasonably related to acquisition or use of the property. Existing law provides that if the entry and activities upon the property cause actual damage to or substantial interference with the possession or use of the property, the owner may recover for the damage or interference in a civil action.

This bill would make technical, nonsubstantive changes to this provision of law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1245.060 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1245.060. (a) If the entry and activities upon property cause
- 4 actual damage to or substantial interference with the possession
- 5 or use of the property, whether or not a claim has been presented
- 6 in compliance with Part 3 (commencing with Section 900) of
- 7 ~~Division~~ *Division* 3.6 of Title 1 of the Government Code, the owner

1 may recover for ~~such~~ *the* damage or interference in a civil action
2 or by application to the court under subdivision (c).

3 (b) The prevailing claimant in an action or proceeding under
4 this section shall be awarded his *or her* costs and, if the court finds
5 that any of the following occurred, his *or her* litigation expenses
6 incurred in proceedings under this article:

7 (1) The entry was unlawful.

8 (2) The entry was lawful but the activities upon the property
9 were abusive or lacking in due regard for the interests of the owner.

10 (3) There was a failure ~~substantially~~ to comply *substantially*
11 with the terms of an order made under Section 1245.030 or
12 1245.040.

13 (c) If funds are on deposit under this article, upon application
14 of the owner, the court shall determine and award the amount the
15 owner is entitled to recover under this section and shall order such
16 amount paid out of the funds on deposit. If the funds on deposit
17 are insufficient to pay the full amount of the award, the court shall
18 enter judgment for the unpaid portion.

19 (d) Nothing in this section affects the availability of any other
20 remedy the owner may have for the damaging of his *or her*
21 property.